

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:18-cv-308-FDW**

CHRISTOPHER A. JUDD,

Plaintiff,

vs.

**BUNCOMBE COUNTY
DETENTION CENTER,**

Defendants.

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ORDER

THIS MATTER is before the Court following Plaintiff's failure to comply with the Court's order dated November 5, 2018, in which the Court allowed Plaintiff twenty-one days in which to either pay the filing fee or submit an application to proceed without prepayment of fees. See (Doc. No. 2). The Court expressly warned Plaintiff in its order that if he failed to cure this deficiency this matter may be dismissed without prejudice and without further notice to Plaintiff. More than twenty days have elapsed since this Court's order, and Plaintiff has failed to respond to the Court's order. Therefore, this action will be dismissed without prejudice.

This action will also be dismissed because the sole Defendant in this action is the "Buncombe County Detention Center," which is not a distinct legal entity capable of being sued, nor is it a "person" within the meaning of 42 U.S.C. § 1983. See Monell v. Dep't. of Soc. Servs., 436 U.S. 658, 688 & n.55 (1978) (noting that for purposes of § 1983 a "person" includes individuals and "bodies politic and corporate"); FED. R. CIV. P. 17(b).

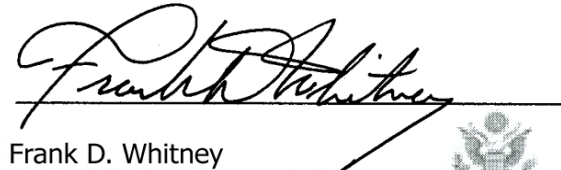
IT IS, THEREFORE, ORDERED that:

- (1) This action is dismissed for Plaintiff's failure to respond to this Court's order dated November 5, 2018, and because the sole Defendant Buncombe County Detention

Center is not a legal entity capable of suit under Section 1983. The dismissal is without prejudice to Plaintiff to refile this action naming proper parties as Defendants.

(2) The Clerk of this Court is directed to terminate this action.

Signed: January 11, 2019


Frank D. Whitney
Chief United States District Judge

